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OFFICE OF PETITIONS

In re Application of

Smith et al.

Application No. 10/672,212

Filed: September 26, 2003

Attorney Docket No. 34171

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)(iii)

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed September 26, 2003, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.


A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, must state how the invention materially contributes to countering terrorism. If the application disclosure is not clear on its face that the claimed invention materially contributes countering terrorism, the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant invention is directed to a method of evaluating a threat posed by a substance. However, methods of evaluating a threatening substance are known in the art as exemplified by the references listed in the Information Disclosure Statement filed April 30, 2004. The mere presence of the invention in a relevant field of technology does not establish the present invention as providing a material contribution to the field. The applicant asserts that the present invention provides a much improved system and method for evaluating a threatening substance. However, this is speculation that is not offered in comparison to any specific technology or substantiated by any evidence. Moreover, the degree of the alleged improvement is not established. Since the contribution must be material, a minor improvement would not be sufficient to support a claim for "special" status. Thus, the instant petition fails to explain how the instant invention contributes in a significant, substantial or noticeable manner to countering terrorism. Accordingly, it is unclear as to how the claimed invention would materially contribute to countering terrorism.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3609 for action in its regular turn.


David Bucci
Petitions Examiner
Office of Petitions